

BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS

Agenda # III.B.1.

Agenda Item Summary. The Department requests approval of amendments to the rules and regulations governing the Montana Strip and Underground Mine Reclamation Act (the Act) to:

1. Address changes in the Act passed by the State Legislature in 2001 and 2003.
2. Address changes required by the Office of Surface Mining (OSM) related to some long-standing issues and some more recent changes to federal regulations.
3. Clarify, correct, and streamline a wide range of requirements and text.
4. Remove requirements deemed unnecessary.

List Of Affected Rules. ARM 17.24.301 through 17.24.1301.

Affected Parties Summary. The proposed rule amendments will affect all current operators and future permittees regulated by the Department under the Coal and Uranium Mining and Prospecting Program. The proposed amendments will also potentially affect the interests of surface owners and lessees of lands being mined or proposed for mining.

Scope Of Proposed Proceeding. The Department requests initiation of rulemaking and appointment of a hearing officer for a public hearing.

Background. In expectation of passage of revisions to the Act that were submitted to the 2003 state legislature and for other reasons, representatives of the Montana coal mining industry submitted a package of suggested rule changes to the Department in the spring of 2003. This led to a series of meetings to discuss various proposals and ideas and to exchanges of written materials that extended through 2003 and early 2004 involving the Department, the coal mining industry, and representatives of the Northern Plains Resource Council. The currently proposed rule amendments are the result of these activities.

Hearing Information. No hearings have been held.

Board Options. The Board may:

1. Initiate rulemaking, appoint a hearing officer, and schedule a hearing;
2. Determine that the adoption of rules is not appropriate and decline to initiate rulemaking; or
3. Direct the Department to modify the rulemaking and proceed.

DEQ Recommendation. The Department recommends initiation of rulemaking and appointment of a hearing officer for a public hearing.

Enclosures. Notice of public hearing on proposed amendments of ARM 17.24.301 through 17.24.1301 pertaining to Coal and Uranium Mining and Prospecting Program requirements.